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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,327	09/16/2003	Heidi L. Jacquin	27688-003	9181

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EXAMINER

LAVINDER, JACK W

ART UNIT PAPER NUMBER

3677

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,327

Applicant(s)

JACQUIN ET AL.

Examiner

Jack W. Lavinder

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8,9,18-21 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8,9,18-21,23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 8, 9, 18-20 and 23-24 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Noble, 2959888 in view of Tano, 6439723, and Fromm, 6050695.

Regarding claims 8, 9, 20, 23 and 25:

Noble discloses interlockable animal shaped toy elements in a kit that can be shared with your friends. The toy elements have a head and a tail with a connecting mechanism therebetween on a top surface and a bottom surface, i.e., the connectors (11) will be on a top surface and a bottom surface if the toy element in figure 1 is rotated ninety degrees.

The applicant has added the term "plush" to describe the animal shaped object. The term "plush" is a subjective term and the definition changes depending on who you ask. In other words, the toy element in Noble could be considered "plush", i.e., lavish, lush, lucullan to a child. Therefore, Noble is considered to show a "plush" object. Noble fails to disclose the claimed voice-chip with a personalized, audible message.

In order to make up for this deficiency in Noble, the Tano reference is applied to teach the use of a voice-chip attached to a plush animal or pendant or ornament. Tano discloses friendship objects in the form of an ornament or a pendant or a stuffed animal (figures 6-8, 10 and 11). The objects contain a connecting mechanism (eye loop) to allow the object to be connected to another object. The objects also include a voice-chip, which is capable of recording a personalized greeting (summary of invention, col. 3, lines 65-end, col. 4, lines 1-25). The voice chip allows the user to personalize the gift to make the gift very special to the receiver.

Neither Tano nor Noble discloses the ideal of personalizing a set of the elements to keep one and give the other one to a friend. In order to make up for this deficiency, Fromm is applied. Fromm discloses that it is old and well known to package items of jewelry together in order to keep one item and give the other item to a friend. It would have been obvious to a person having ordinary skill in the art to modify Noble's toy elements to include a voice chip with a personalized message in order to give or trade one of the elements to another user. The other user can keep this as a reminder of their friendship and to use with their toy.

Regarding claims 18-19, 24 and 27

Noble and Tano disclose a friendship items in the shape of an animal (figure 7). Furthermore, note that the courts have found that matters relating to ornamentation only, which have no mechanical function, cannot be relied upon to

patentably distinguish the claimed invention from the prior art. *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947).

3. Claims 21 and 26 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Noble in view of Tano and Fromm, as applied above, and further in view of Ford, 6445132.

Noble in view of Tano and Fromm fail to disclose the use of hook and loop fasteners for attaching the objects to one another. The use of hook and loop fastener tape for attaching one object in a flexible manner to another object is shown by Ford, albeit between a hook and light (figure 7). This still teaches to a person having ordinary skill in the art that a hook and loop fastener tape can be used to attach one object to another. Therefore, it would have been obvious to a person having ordinary skill in the art to use either Noble's or Tano's jewelry type clasp or Ford's hook and loop tape fastener. They both perform the identical function of flexibly attaching one object to another equally as well as the other. Also, the specification fails to disclose any criticality attributed to the use of the hook and loop tape over the jewelry clasp.

Response to Arguments

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jack W. Lavinder
Primary Examiner
Art Unit 3677

7/13/2006